

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

CASE NAME: CARLSBAD FAMILY HOUSING
CASE NO.: SDP 02-13

A portion of fractional northeast quarter of southwest quarter of Section 23, Township 12 South, Range 4 West, San Bernardino Meridian, in the City of Carlsbad, County of San Diego, State of California

15

16
17
18
19

21

23
24
25

26

27

- A) That the foregoing recitations are true and correct.

1 B) That based on the evidence presented at the public hearing, the Planning
2 Commission **RECOMMENDS APPROVAL** of **CARLSBAD FAMILY**
3 **HOUSING – SDP 02-13**, based on the following findings and subject to the
4 following conditions:

4 **Findings:**

- 5 1. That the requested use is properly related to the site, surroundings and environmental
6 settings, is consistent with the various elements and objectives of the General Plan, will
7 not be detrimental to existing uses or to uses specifically permitted in the area in which
8 the proposed use is to be located, and will not adversely impact the site, surroundings or
9 traffic circulation, in that **the proposed high density low income apartment project is**
10 **consistent with the General Plan and not detrimental to existing uses in the area**
11 **because the site is located in proximity to other multiple family projects of similar**
12 **density and design, and commercial services and public support systems such as**
13 **public transportation, two community parks and commercial shopping centers are**
14 **or will be located in proximity to the site; and the proposed site design ensures that**
15 **no direct public access off of El Camino Real (prime arterial) is proposed and fire**
16 **hazards are avoided thereby ensuring that the use is properly related to the site and**
17 **surroundings and no adverse impacts will result from the project. The project**
18 **exceeds the density permitted by the RH General Plan designation by 6 units;**
19 **however, excess units are available and public facilities are adequate as required by**
20 **the General Plan and the low-income project qualifies for excess dwelling units in**
21 **accordance with Council Policy 43.**
- 22 2. That the site for the intended use is adequate in size and shape to accommodate the use, in
23 that **the proposed lot coverage of 27.4% is less than half that permitted by the RD-M**
24 **zone, and the project conforms to all zoning and applicable City standards with the**
25 **exception of permitted deviations to the El Camino Real Corridor Development**
26 **Standards.**
- 27 3. That all yards, setbacks, walls, fences, landscaping, and other features necessary to adjust
28 the requested use to existing or permitted future uses in the neighborhood will be
provided and maintained, in that **all required minimum setbacks are exceeded with the**
exception of the El Camino Real Corridor setback from right-of-way and placement
of wall standards, and split face block fencing, landscape screening and enhanced
architecture is provided.
4. That the street systems serving the proposed use is adequate to properly handle all traffic
generated by the proposed use, in that **the additional ADT generated by the project**
will not reduce road segment or intersection levels of service to below the City's
threshold level of "D" or better.
5. The **Planning Commission** of the City of Carlsbad does hereby find:
 - a. it has reviewed, analyzed and considered Negative Declaration, the environmental
impacts therein identified for this project and any comments thereon prior to
RECOMMENDING ADOPTION of the project; and

- b. the Negative Declaration has been prepared in accordance with requirements of the California Environmental Quality Act, the State Guidelines and the Environmental Protection Procedures of the City of Carlsbad; and
 - c. it reflects the independent judgment of the **Planning Commission** of the City of Carlsbad; and
 - d. based on the EIA Part II and comments thereon, there is no substantial evidence the project will have a significant effect on the environment
6. The project is consistent with the City-Wide Facilities and Improvements Plan, the Local Facilities Management Plan for Zone 10 and all City public facility policies and ordinances. The project includes elements or has been conditioned to construct or provide funding to ensure that all facilities and improvements regarding: sewer collection and treatment; water; drainage; circulation; fire; schools; parks and other recreational facilities; libraries; government administrative facilities; and open space, related to the project will be installed to serve new development prior to or concurrent with need. Specifically:
 - a. The project has been conditioned to provide proof from the **Carlsbad Unified School District** that the project has satisfied its obligation for school facilities.
 - b. Park-in-lieu fees are required by Carlsbad Municipal Code Chapter 20.44, and will be collected prior to issuance of building permit.
 - c. The Public Facility fee is required to be paid by Council Policy No. 17 and will be collected prior to the issuance of building permit.
7. That the project is consistent with the City's Landscape Manual (Carlsbad Municipal Code Section 14.28.020 and Landscape Manual Section I B).
8. The Planning Commission hereby finds that all development in Carlsbad benefits from the Habitat Management Plan, which is a comprehensive conservation plan and implementation program that will facilitate the preservation of biological diversity and provide for effective protection and conservation of wildlife and plant species while continuing to allow compatible development in accordance with Carlsbad's Growth Management Plan. Preservation of wildlife habitats and sensitive species is required by the Open Space and Conservation Element of the City's General Plan which provides for the realization of the social, economic, aesthetic and environmental benefits from the preservation of open space within an increasingly urban environment. Moreover, each new development will contribute to the need for additional regional infrastructure that, in turn, will adversely impact species and habitats. The In-Lieu Mitigation Fee imposed on all new development within the City is essential to fund implementation of the City's Habitat Management Plan.
9. The Planning Commission has reviewed each of the exactions imposed on the Developer contained in this resolution, and hereby finds, in this case, that the exactions are imposed

to mitigate impacts caused by or reasonably related to the project, and the extent and the degree of the exaction is in rough proportionality to the impact caused by the project.

Conditions:

Note: Unless otherwise specified herein, all conditions shall be satisfied prior to **issuance of a grading or building permit, whichever occurs first.**

1. If any of the following conditions fail to occur; or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the City's approval of this **Site Development Plan**.
2. Staff is authorized and directed to make, or require the Developer to make, all corrections and modifications to the **Site Development Plan** documents, as necessary to make them internally consistent and in conformity with the final action on the project. Development shall occur substantially as shown on the approved Exhibits. Any proposed development different from this approval, shall require an amendment to this approval.
3. Developer shall comply with all applicable provisions of federal, state, and local laws and regulations in effect at the time of building permit issuance.
4. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.
5. Developer/Operator shall and does hereby agree to indemnify, protect, defend and hold harmless the City of Carlsbad, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this **Site Development Plan**, (b) City's approval or issuance of any permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and (c) Developer/Operator's installation and operation of the facility permitted hereby, including without limitation, any and all liabilities arising from the emission by the facility of electromagnetic fields or other energy waves or emissions. This obligation survives until all legal proceedings have been concluded and continues even if the City's approval is not validated.

6. Developer shall submit to **the Planning Department** a reproducible 24" x 36" mylar copy of the **Site Plan** reflecting the conditions approved by the final decision making body.
7. Prior to the issuance of a building permit, the Developer shall provide proof to the Director from the **Carlsbad Unified** School District that this project has satisfied its obligation to provide school facilities.
8. This project shall comply with all conditions and mitigation measures which are required as part of the **Zone 10** Local Facilities Management Plan and any amendments made to that Plan prior to the issuance of building permits.
9. This approval is granted subject to the approval of **GPA 02-05, ZC 02-06, and SUP 02-09**, and is subject to all conditions contained in Planning Commission Resolutions No. **5666, 5667, and 5669** for those other approvals incorporated herein by reference.
10. This approval shall become null and void if building permits are not issued for this project within **2 years** from the date of project approval.
11. Building permits will not be issued for this project unless the local agency providing water and sewer services to the project provides written certification to the City that adequate water service and sewer facilities, respectively, are available to the project at the time of the application for the building permit, and that water and sewer capacity and facilities will continue to be available until the time of occupancy.
12. This project has been found to result in impacts to wildlife habitat or other lands, such as agricultural land, which provide some benefits to wildlife, as documented in the City's Habitat Management Plan and the environmental analysis for this project. Developer is aware that the City has adopted an In-lieu Mitigation Fee consistent with Section E.6 of the Habitat Management Plan and City Council Resolution No. 2000-223 to fund mitigation for impacts to certain categories of vegetation and animal species. The Developer is further aware that the City has determined that all projects will be required to pay the fee in order to be found consistent with the Habitat Management Plan and the Open Space and Conservation Element of the General Plan. The fee becomes effective following final approval of the Habitat Management Plan. The City is currently updating the fee study, which is expected to result in an increase in the amount of the fee. If the Habitat Management Plan is approved, then the Developer or Developer's successor(s) in interest shall pay the adjusted amount of the fee. The fee shall be paid prior to recordation of a final map, or issuance of a grading permit or building permit, whichever occurs first. If the In-lieu Mitigation Fee for this project is not paid, this project will not be consistent with the Habitat Management Plan and the General Plan and any an all approvals for this project shall become null and void.
13. Prior to the approval of the final map for any phase of this project, or where a map is not being processed, prior to the issuance of building permits for any lots or units, the Developer shall enter into an Affordable Housing Agreement with the City to provide and deed restrict **56** dwelling units as affordable to lower-income households for 55 years, in accordance with the requirements and process set forth in Chapter 21.85 of the Carlsbad

1 Municipal Code. The recorded Affordable Housing Agreement shall be binding on all
2 future owners and successors in interest.

3 14. Developer shall submit and obtain Planning Director approval of a Final Landscape and
4 Irrigation Plan showing conformance with the approved Preliminary Landscape Plan and
5 the City's Landscape Manual. Developer shall construct and install all landscaping as
6 shown on the approved Final Plans, and maintain all landscaping in a healthy and thriving
7 condition, free from weeds, trash, and debris. **Final landscape plans shall provide a**
8 **dimensioned fencing plan showing all perimeter masonry block and open iron rail**
9 **fencing at a height not to exceed 6 feet.**

10 15. The first submittal of Final Landscape and Irrigation Plans shall be pursuant to the
11 landscape plan check process on file in the Planning Department and accompanied by the
12 project's building, improvement, and grading plans.

13 16. Developer shall pay the citywide Public Facilities Fee imposed by City Council Policy
14 #17, the License Tax on new construction imposed by Carlsbad Municipal Code Section
15 5.09.030, and CFD #1 special tax (if applicable), subject to any credits authorized by
16 Carlsbad Municipal Code Section 5.09.040. Developer shall also pay any applicable
17 Local Facilities Management Plan fee for Zone 10, pursuant to Chapter 21.90. All such
18 taxes/fees shall be paid at issuance of building permit. If the taxes/fees are not paid, this
19 approval will not be consistent with the General Plan and shall become void.

20 17. All roof appurtenances, including air conditioners, shall be architecturally integrated and
21 concealed from view and the sound buffered from adjacent properties and streets, in
22 substance as provided in Building Department Policy No. 80-6, to the satisfaction of the
23 Directors of Community Development and Planning.

24 18. Prior to the issuance of the **grading permit**, Developer shall submit to the City a Notice
25 of Restriction to be filed in the office of the County Recorder, subject to the satisfaction
26 of the Planning Director, notifying all interested parties and successors in interest that the
27 City of Carlsbad has issued a **Site Development Plan** by Resolution No. **5668** on the
28 property. Said Notice of Restriction shall note the property description, location of the
file containing complete project details and all conditions of approval as well as any
conditions or restrictions specified for inclusion in the Notice of Restriction. The
Planning Director has the authority to execute and record an amendment to the notice
which modifies or terminates said notice upon a showing of good cause by the Developer
or successor in interest.

19 19. Developer shall construct trash receptacle and recycling areas enclosed by a six-foot high
20 masonry wall with gates pursuant to City Engineering Standards and Carlsbad Municipal
21 Code Chapter 21.105. Location of said receptacles shall be **as shown on Exhibit "A."**
22 Enclosure shall be of similar colors and/or materials to the project to the satisfaction of
23 the Planning Director.

24 20. Developer shall construct, install and stripe not less than **123 standard** parking spaces, as
25 shown on Exhibit "A."

- 1 21. Prior to the issuance of a **grading** permit, the Developer shall prepare and record a Notice
2 that this property may be subject to noise impacts from the existing **El Camino Real**
3 Transportation Corridor, in a form meeting the approval of the Planning Director and City
4 Attorney (see Noise Form #1 on file in the Planning Department).
- 5 22. Prior to the issuance of a **grading** permit, the Developer shall prepare and record a Notice
6 that this property is subject to overflight, sight and sound of aircraft operating from
McClellan-Palomar Airport, in a form meeting the approval of the Planning Director and
the City Attorney (see Noise Form #2 on file in the Planning Department).

7 **Engineering:**

- 8 23. Prior to issuance of any building permit, the developer shall comply with the
9 requirements of the City's anti-graffiti program for wall treatments if and when such a
program is formally established by the City.
- 10 24. Prior to hauling dirt or construction materials to or from any proposed construction site
11 within this project, the developer shall submit to and receive approval from the City
12 Engineer for the proposed haul route. The developer shall comply with all conditions and
requirements the City Engineer may impose with regards to the hauling operation.
- 13 25. The developer shall provide for sight distance corridors at all street intersections in
14 accordance with Engineering Standards.

15 "No structure, fence, wall, tree, shrub, sign, or other object over 30 inches above
16 the street level may be placed or permitted to encroach within the area identified
17 as a sight distance corridor in accordance with City Standard Public Street-Design
Criteria, Section 8.B.3."

18 **Fees/Agreements**

- 19 26. The developer shall pay all current fees and deposits required.
- 20 27. The owner of the subject property shall execute an agreement holding the City harmless
21 regarding drainage across the adjacent property.
- 22 28. Prior to approval of any grading or building permits for this project, Developer shall
23 cause Owner to give written consent to the City Engineer to the annexation of the area
24 shown within the boundaries of the subdivision into the existing City of Carlsbad Street
Lighting and Landscaping District No. 1 **and/or to the formation or annexation into an**
25 **additional Street Lighting and Landscaping District. Said written consent shall be**
on a form provided by the City Engineer.

26 **Grading**

- 27 29. Based upon a review of the proposed grading and the grading quantities shown on the site
28 plan, a grading permit for this project is required. (The developer must submit and receive
approval for grading plans in accordance with city codes and standards prior to issuance

of a building permit for the project.)

30. Prior to the issuance of a grading permit or building permit, whichever occurs first, the developer shall submit proof that a Notice of Intention has been submitted to the State Water Resources Control Board.
31. No grading for private improvements shall occur outside the limits of the project unless a grading or slope easement or agreement is obtained from the owners of the affected properties and recorded. If the developer is unable to obtain the grading or slope easement, or agreement, no grading permit will be issued. In that case the developer must either amend the site plan or modify the plans so grading will not occur outside the project site in a manner which substantially conforms to the approved site plan as determined by the City Engineer and Planning Director.

Dedications/Improvements

32. Additional drainage easements may be required. Drainage structures shall be provided or installed prior to or concurrent with any grading or building permit as may be required by the City Engineer.
33. The owner shall make an offer of dedication to the City for all public streets and easements required by these conditions or shown on the site plan. The offer shall be made prior to the issuance of any building permit for this project. All land so offered shall be granted to the City free and clear of all liens and encumbrances and without cost to the City. Streets that are already public are not required to be rededicated.
34. **El Camino Real** shall be dedicated by the owner along the project frontage based on a centerline to right-of-way width of 63 feet and in conformance with City of Carlsbad Standards.
35. **Cassia Road** shall be dedicated by the owner along the **northern project boundary** based on a centerline to right-of-way width of 30 feet and in conformance with City of Carlsbad Standards. **The total dedication required for Cassia Street is ½ width plus 12' for a total width of 42'.**
36. **Additional right of way may be required to accommodate the frontage improvements and offsite transitions to northbound El Camino Real in conformance with City of Carlsbad Standards.**
37. Some improvements shown on the site development plan and/or required by these conditions are located offsite on property which neither the City nor the owner has sufficient title or interest to permit the improvements to be made without acquisition of title or interest.
38. Prior to issuance of building permits, the developer shall underground all existing overhead utilities along the project boundary.

- 1 39. Direct access rights for the project frontage with **El Camino Real** shall be waived by
2 separate deed or document prior to building permit issuance.
- 3 40. The developer shall comply with the City's requirements of the National Pollutant
4 Discharge Elimination System (NPDES) permit. The developer shall provide best
5 management practices as referenced in the "California Storm Water Best Management
6 Practices Handbook" to reduce surface pollutants to an acceptable level prior to discharge
7 to sensitive areas. Plans for such improvements shall be approved by the City Engineer.
8 Said plans shall include but not be limited to notifying prospective owners and tenants of
9 the following:
- 10 A. All owners and tenants shall coordinate efforts to establish or work with
11 established disposal programs to remove and properly dispose of toxic and
12 hazardous waste products.
- 13 B. Toxic chemicals or hydrocarbon compounds such as gasoline, motor oil,
14 antifreeze, solvents, paints, paint thinners, wood preservatives, and other
15 such fluids shall not be discharged into any street, public or private, or into
16 storm drain or storm water conveyance systems. Use and disposal of
17 pesticides, fungicides, herbicides, insecticides, fertilizers and other such
18 chemical treatments shall meet Federal, State, County and City
19 requirements as prescribed in their respective containers.
- 20 C. Best Management Practices shall be used to eliminate or reduce surface
21 pollutants when planning any changes to the landscaping and surface
22 improvements.
- 23 41. Plans, specifications, and supporting documents for all public improvements shall be
24 prepared to the satisfaction of the City Engineer. In accordance with City Standards, the
25 developer shall install, or agree to install and secure with appropriate security as provided
26 by law, improvements shown on the site plan and the following improvements:
- 27 a) **Half street improvements to El Camino Real including transitions as
28 approved by the City Engineer. Improvements to include but not be
limited to grading, landscape, irrigation and drainage, curb, gutter &
sidewalk, Fully improved median, and traffic signals or traffic signal
relocation.**
- b) **Half plus 12' street improvements to Cassia Rd. from El Camino Real
east to the cul de sac of this project including but not limited to grading,
landscape, irrigation and drainage, curb, gutter & sidewalk and
transitions as required.**
- c) **Extension of public utilities to serve adjacent development north of this
project as required. A utility plan to show alternate routes and service
connections can be submitted to resolve future connection and service
issues.**

1 d) **Downstream drainage improvements or maintenance of existing drainage**
2 **desiltation / detention basins may be required. Increased runoff from this**
3 **project or diversion of runoff shall be designed to not impact existing**
4 **facilities beyond the acceptable capacity.**

5 Improvements listed above shall be constructed within 18 months of approval of the
6 secured improvement agreement or such other time as provided in said agreement.

- 7 42. The structural section for the access aisles must be designed with a traffic index of 5.0 in
8 accordance with City Standards to accommodate truck access through the parking area
9 and/or aisles. The structural pavement design of the aisle ways shall be submitted
10 together with required R-value soil test information and approved by the City as part of
11 the grading plan review.

12 **Code Reminders**

- 13 43. Developer shall pay park-in-lieu fees to the City, prior to the approval of the final map as
14 required by Chapter 20.44 of the Carlsbad Municipal Code.
- 15 44. Developer shall pay a landscape plan check and inspection fee as required by Section
16 20.08.050 of the Carlsbad Municipal Code.
- 17 45. Approval of this request shall not excuse compliance with all applicable sections of the
18 Zoning Ordinance and all other applicable City ordinances in effect at time of building
19 permit issuance, except as otherwise specifically provided herein.
- 20 46. The project shall comply with the latest non-residential disabled access requirements
21 pursuant to Title 24 of the State Building Code.
- 22 47. Premise identification (addresses) shall be provided consistent with Carlsbad Municipal
23 Code Section 18.04.320.
- 24 48. Any signs proposed for this development shall at a minimum be designed in conformance
25 with the City's Sign Ordinance and shall require review and approval of the Planning
26 Director prior to installation of such signs.
- 27 49. The developer shall exercise special care during the construction phase of this project to
28 prevent offsite siltation. Planting and erosion control shall be provided in accordance
29 with the Carlsbad Municipal Code and the City Engineer.

30 **NOTICE**

31 Please take **NOTICE** that approval of your project includes the "imposition" of fees, dedications,
32 reservations, or other exactions hereafter collectively referred to for convenience as
33 "fees/exactions."

34 You have 90 days from date of final approval to protest imposition of these fees/exactions. If
35 you protest them, you must follow the protest procedure set forth in Government Code Section
36 66020(a), and file the protest and any other required information with the City Manager for

1 processing in accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely
2 follow that procedure will bar any subsequent legal action to attack, review, set aside, void, or
3 annul their imposition.

4 You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions
5 DOES NOT APPLY to water and sewer connection fees and capacity charges, nor planning,
6 zoning, grading or other similar application processing or service fees in connection with this
7 project; NOR DOES IT APPLY to any fees/exactions of which you have previously been given a
8 NOTICE similar to this, or as to which the statute of limitations has previously otherwise
9 expired.

10 PASSED, APPROVED AND ADOPTED at a regular meeting of the planning
11 Commission of the City of Carlsbad, California, held on the 7th day of July 2004, by the
12 following vote, to wit:

13 AYES: Chairperson Whitton, Commissioners Baker, Dominguez,
14 Heineman, and Montgomery

15 NOES: None

16 ABSENT: Commissioner Segall

17 ABSTAIN: None

18 
19 FRANK H. WHITTON, Chairperson
20 CARLSBAD PLANNING COMMISSION

21 ATTEST:

22 
23 MICHAEL J. HOLZMILLER
24 Planning Director